

Proposed Marriage Amendment

On November 2, 2004, Kentucky's voters will approve or reject a change to the state Constitution to define marriage as a union between one man and one woman and to mandate that no such legal status will be given to unmarried individuals.

The Kentucky Constitution does not currently define marriage. The following question will appear on the ballot.

Constitutional Amendment No. 1

Are you in favor of amending the Kentucky Constitution to provide that only a marriage between one man and one woman shall be a marriage in Kentucky, and that a legal status identical to or similar to marriage for unmarried individuals shall not be valid or recognized?

A "YES" vote will change the Kentucky Constitution to define marriage in Kentucky as that between one man and one woman only. In addition, the proposed amendment would not allow legal recognition of same-sex marriages performed out of Kentucky; and would not allow legal status identical to or similar to marriage for unmarried individuals, such as civil unions, regardless of where they were performed.

A "NO" vote will not change the Kentucky Constitution regarding marriage. If Kentucky voters reject the proposed amendment, there will be no change to existing Kentucky laws that currently prohibit same-sex marriage and legal recognition or validation of same-sex marriage or civil union.

Effective Date

If the proposed amendment is approved by the voters on November 2, it will take effect immediately.

Brief History

The Defense of Marriage Act was enacted by the United States Congress in 1996 and prohibits federal recognition of same-sex marriages and permits states to do likewise. Kentucky adopted legislation in 1998 to prohibit same-sex marriage (KRS 402.020) and to prohibit recognition or validation of a marriage between members of the same sex that took place outside Kentucky (KRS 402.045). Thirty-five states have passed similar laws, and four states have incorporated a definition of marriage into their state's constitution (Alaska, Hawaii, Nebraska, Nevada).

In 1993, the Hawaii Supreme Court found that laws denying same-sex couples the right to marry were in violation of the state constitution unless the state could find a compelling reason for the discrimination. Voters in Hawaii adopted a constitutional amendment in 1998 that gave the legislature the authority to restrict marriage to heterosexual couples.

The Vermont legislature passed legislation in 2000 to permit civil unions between same-sex couples. This legislation gave such couples the benefits and protections that married couples are afforded under the laws of Vermont.

In May 2004, Massachusetts legalized same-sex marriage after a Supreme Judicial Court ruling found that to deny a same-sex couple the right to marry violated the state's constitution. Massachusetts then began issuing marriage licenses to same-sex couples.

Since the Massachusetts ruling, a national debate has emerged regarding marriage and whether marriage should be defined—in state constitutions and the U.S. Constitution even if it is defined in statute—as a union between one man and one woman.

During the 2004 Session, the Kentucky General Assembly passed Senate Bill 245 that proposes an amendment to the Kentucky Constitution by creating a new section (233A) that would restrict marriage to heterosexual couples. The proposed amendment also mandates that legal status would be denied to same-sex marriages that take place outside Kentucky. Legal status identical to or similar to marriage also would be denied for unmarried individuals, regardless of where they were performed. Any proposed change to the Kentucky Constitution must be decided by the voters.

Six states will consider similar constitutional amendments this year: Georgia, Louisiana, Mississippi, Missouri, Oklahoma, and Utah.

Where To Vote

Contact your County Clerk to find out where you go to cast your vote. Polling places are located throughout your community. Where you cast your vote is determined by your address.

On the ballot November 2, 2004

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Kentucky Legislative Research Commission

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